

CHAPTER 5

AIRPORT AUTHORITIES

This chapter is designed to summarize certain laws, regulations and uniform compliance guidelines relevant to airport authorities. Please refer to the Indiana Code and other related documents for a complete listing of laws and regulations governing airport authorities. See chapters 10 through 24 of this manual for additional Accounting and Uniform Compliance Guidelines.

ESTABLISHMENT

Whenever the fiscal body of one or more eligible entities, acting individually or jointly, adopts an ordinance or a resolution in favor of the establishment of an airport authority, there is established an airport authority. [IC 8-22-3-1]

JURISDICTION

The authority has jurisdiction over a district with boundaries coterminous with the jurisdictional boundaries of the entity or entities adopting the ordinance or resolution. The authority must have a name including the words "airport authority." [IC 8-22-3-1]

EXERCISE OF POWERS

The board of an authority shall exercise the executive and legislative powers of the authority. [IC 8-22-3-3]

MEETINGS

The board shall elect, at its first regular meeting to be conducted on the first July 1 or January 1 after appointment of the board members, and annually thereafter, one (1) of its members president, and another of its members vice-president, who performs the duties of the president during the absence of or disability of the president. The board shall keep a suitable office at the airport where its maps, plans, documents, records, and accounts shall be kept, subject to public inspection at all reasonable times.

The board shall provide by rule for regular meetings to be held not less than at monthly intervals throughout the year.

The board shall convene in a special meeting when one is called. The president or a majority of the members of the board may call a special meeting. The board shall establish by rule a procedure for calling special meetings.

Meetings shall be held at the office of the board, except that public hearings and similar meetings for which the office facilities are inadequate may be held at another public place in the district that is designed by the board. The board may adjourn any regular or special meeting to a specific day designated at the time of adjournment, and that meeting is a continuation of the meeting so adjourned.

A majority of the members of the board constitutes a quorum for a meeting. The board may act officially by an affirmative vote of a majority of those present at the meeting at which the action is taken.

The board shall keep a written record of its proceedings, which shall be available for public inspection in the office of the board. The board shall record the aye and nay tally of the vote for each ordinance or resolution.

The board shall adopt a system of rules of procedure under which its meetings are to be held. The board may suspend the rules of procedure by unanimous vote of the members of the board who are present at the meeting. The board may not suspend the rules of procedure beyond the duration of the meeting at which the suspension of rules occurs.

The board may supervise its internal affairs as do local legislative and administrative bodies. [IC 8-22-3-9]

ORDINANCES

A member of the board may introduce a draft of a proposed ordinance at a meeting of the board. A person who introduces a draft shall provide at the time of introduction a written copy of the draft. The board shall assign to each draft a distinguishing number and the date when introduced.

Not more than seven (7) days after the introduction of a draft of an ordinance nor less than seven (7) days before the final passage of a draft of an ordinance, the board shall publish a notice that the proposed ordinance is pending final action by the board. The notice shall be published in each county within the jurisdiction of the board in accordance with IC 5-3-1. Notice of an ordinance establishing a budget must be in accordance with IC 6-1.1-17.

The board shall include in the notice reference to the subject matter of the proposed ordinance and the time and place a hearing will be had and shall indicate that the proposed ordinance is available for public inspection at the office of the board. The board may include in one (1) notice a reference to the subject matter of each draft that is pending and for which notice has not already been given.

An ordinance is not invalid because the reference to the subject matter of the draft was inadequate if it was sufficient to advise the public of the general subject matter of the proposed ordinance.

The board shall, not later than the date of notice, place five (5) copies of the proposed draft on file in the office of the board for public inspection.

At a meeting for which notice has been given as required by this section, the board may take final action on the proposed ordinance or may postpone final consideration of it to a designated meeting in the future without giving additional notice.

Before adopting an ordinance, the board must give an opportunity to persons present at the meeting to give testimony, evidence, or argument for or against the proposed ordinance in person or by counsel, under reasonable rules as to the number of persons who may be heard and time limits that the board adopts.

When an ordinance is adopted, the board shall also designate the effective date of the ordinance. If the board fails to designate the effective date of the ordinance in the record of the proceedings of the board, the ordinance takes effect on the fourteenth day after its passage.

When the board adopts an ordinance, the board shall have copies of it made available to the public.

The board may provide for the printing of the ordinances of the authority in pamphlet form or for bound volumes and may distribute them without charge, or may charge the cost of printing and distribution. [IC 8-22-3-10]

POWERS AND DUTIES

The board may do all acts necessary or reasonably incident to carrying out the purposes of IC 8-22-3, including the following:

- (1) As a municipal corporation, to sue and be sued in its own name.
 - (2) To have all the powers and duties conferred by statute upon boards of aviation commissioners. The board supersedes all boards of aviation commissioners within the district. The board has exclusive jurisdiction within the district.
 - (3) To protect all property owned or managed by the board.
 - (4) To adopt an annual budget and levy taxes in accordance with IC 8-22-3.
- (A) The board may not levy taxes on property in excess of the following rate schedule, except as provided in IC 8-22-3-17 and IC 8-22-3-25:

<u>Total Assessed Property Valuation</u>	<u>Rate Per \$100 Of Assessed Valuation</u>
\$300 million or less	\$0.10
More than \$300 million but not more than \$450 million	\$0.833
More than \$450 million but not more than \$600 million	\$0.0667
More than \$600 million but not more than \$900 million	\$0.05
More than \$900 million	\$0.0333

- (B) Clause (A) does not apply to an authority that was established under IC 19-6-2 or IC 19-6-3 (before their repeal on April 1, 1980).
- (C) The board of an authority that was established under IC 19-6-3 (before its repeal on April 1, 1980) may levy taxes on property not in excess of six and sixty-seven hundredths (80.0667) on each one hundred dollars (\$100) of assessed valuation.
- (5) To incur indebtedness in the name of the authority.
 - (6) To adopt administrative procedures, rules, and regulations.
 - (7) To acquire property, real, personal or mixed, by deed, purchase, lease, condemnation, or otherwise and dispose of it for use or in connection with or for administrative purposes of the airport; to receive gifts, donations, bequests, and public trusts and to agree to conditions and terms accompanying them and to bind the authority to carry them out; to receive and administer federal or state aid; and to erect buildings or structures that may be needed.
 - (8) To determine matters of policy regarding internal organization and operating procedures not specifically provided for otherwise.

- (9) To adopt a schedule of reasonable charges and to collect them from all users of facilities and services within the district.
- (10) To purchase supplies, materials, and equipment to carry out the duties and functions of the board, in accordance with procedures adopted by the board.
- (11) To employ personnel that are necessary to carry out the duties, functions, and powers of the board.
- (12) To establish an employee pension plan. The board may, upon due investigation, authorize and begin a fair and reasonable pension or retirement plan and program for personnel, the cost to be borne by either the authority or by the employee or by both, as the board determines. If the authority was established under IC 19-6-2 (before its repeal on April 1, 1980), the entire cost must be borne by the authority, and ordinances creating the plan or making changes in it must be approved by the mayor of the city. The plan may be administered and funded by a trust fund or by insurance purchased from an insurance company licensed to do business in Indiana or by a combination of them. The board may also include in the plan provisions for life insurance, disability insurance, or both.
- (13) To sell surplus real or personal property in accordance with law.
- (14) To adopt and use a seal.
- (15) To acquire, establish, construct, improve, equip, maintain, control, lease, and regulate municipal airports, landing fields, and other air navigation facilities, either inside or outside the district; to acquire by lease (with or without the option to purchase) airports, landing fields, or navigation facilities, and any structures, equipment, or related improvements; and to erect, install, construct, and maintain at the airport or airports facilities for the servicing of aircraft and for the comfort and accommodation of air travelers and the public. The Indiana Department of Transportation must grant its approval before land may be purchased for the establishment of an airport or landing field and before an airport or landing field may be established.
- (16) To fix and determine exclusively the uses to which the airport lands may be put. All uses must be necessary or desirable to the airport or the aviation industry and must be compatible with the uses of the surrounding lands as far as practicable.
- (17) To elect a secretary from its membership, or to employ a secretary, an airport director, superintendents, managers, a treasurer, engineers, surveyors, attorneys, clerks, guards, mechanics, laborers, and all employees the board considers expedient, and to prescribe and assign their respective duties and authorities and to fix and regulate the compensation to be paid to the persons employed by it, in accordance with the authority's appropriations. All employees shall be selected irrespective of their political affiliations.
- (18) To make all rules and regulations, consistent with laws regarding air commerce, for the management and control of its airports, landing fields, air navigation facilities, and other property under its control.
- (19) To acquire by lease the use of an airport or landing field for aircraft pending the acquisition and improvement of an airport or landing field.

- (20) To manage and operate airports, landing fields, and other air navigation facilities acquired or maintained by an authority; to lease all or part of an airport, landing field, or any buildings or other structures, and to fix, charge, and collect rentals, tolls, fees, and charges to be paid for the use of the whole or a part of the airports, landing fields, or other air navigation facilities by aircraft landing there and for the servicing of the aircraft; to construct public recreational facilities that will not interfere with air operational facilities; to fix, charge, and collect fees for public admissions and privileges; and to make contracts for the operation and management of the airports, landing fields, and other air navigation facilities; and to provide for the use, management, and operation of the air navigation facilities through lessees, its own employees, or otherwise. Contracts or leases for the maintenance, operation, or use of the airport or any part of it may be made for a term not exceeding fifteen (15) years, and may be extended for similar terms of years, except that any parcels of the land of the airport may be leased for any use connected with the operation and convenience of the airport for an initial term not exceeding forty (40) years, and may be extended for a period not to exceed ten (10) years. If a person whose character, experience, and financial responsibility has been determined satisfactory by the board offers to erect a permanent structure that facilitates and is consistent with the operation, use, and purpose of the airport on land belonging to the airport, a lease may be entered into for a period not to exceed ninety-nine (99) years. However, the board must pass an ordinance to enter into such a lease. The board may not grant an exclusive right for the use of a landing area under its jurisdiction. However, this does not prevent the making of leases in accordance with other provisions of this chapter. All contracts and leases are subject to restrictions and conditions that the board prescribes. The authority may lease its property and facilities for any commercial or industrial use it considers necessary and proper, including the use of providing airport motel facilities.
- (21) To sell machinery, equipment, or material that is not required for aviation purposes. The proceeds shall be deposited with the treasurer of the authority.
- (22) To negotiate and execute contracts for sale or purchase, lease, personal services, materials, supplies, equipment, or any other transaction or business relative to an airport under the board's control and operation. However, whenever the board determines to sell part or all of aviation lands, buildings, or improvements owned by the authority, the sale must be in accordance with law.
- (23) To vacate all or parts of roads, highways, streets, or alleys, whether inside or outside the district, in the manner provided by statute.
- (24) To annex lands to itself if the lands are owned by the authority or are streets, roads, or other public ways.
- (25) To approve any state, county, city, or other highway, road, street or other public way, railroad, power line, or other right-of-way to be laid out or opened across an airport or in such proximity as to affect the safe operation of the airport.
- (26) To construct drainage and sanitary sewers with connections and outlets as are necessary for the proper drainage and maintenance of an airport or landing field acquired or maintained, including the necessary buildings and improvements and for the public use of them in the same manner that the authority may construct sewers and drains. However, with respect to the construction of drains and sanitary sewers beyond the boundaries of the airport or landing field, the board shall proceed in the same manner as private owners of property and may institute proceedings and negotiate with the departments, bodies, and

officers of an eligible entity to secure the proper orders and approvals; and to order a public utility or public service corporation or other person to remove or to install in underground conduits wires, cables, and power lines passing through or over the airport or landing field or along the borders or within a reasonable distance that may be determined to be necessary for the safety of operations, upon payment to the utility or other person of due compensation for the expense of the removal or reinstallation. The board must consent before any franchise may be granted by state or local authorities for the construction of or maintenance of railway, telephone, telegraph, electric power, pipe, or conduit line upon, over, or through land under the control of the board or within a reasonable distance of land that is necessary for the safety of operation. The board must also consent before overhead electric power lines carrying a voltage of more than four thousand four hundred (4,400) volts and having poles, standards, or supports over thirty (30) feet in height within one-half ($\frac{1}{2}$) mile of a landing area acquired or maintained under this chapter may be installed.

- (27) To contract with any other state agency or instrumentality or any political subdivision for the rendition of services, the rental or use of equipment or facilities, or the joint purchase and use of equipment or facilities that are necessary for the operation, maintenance, or construction of an airport.
- (28) To provide air transportation in furtherance of the duties and responsibilities of the board.
- (29) To promote or encourage aviation-related trade or commerce at the airports that it operates.
[IC 8-22-3-11]

ISSUANCE OF BONDS

IC 8-22-3-16 authorizes the airport authority to issue general obligation bonds and IC 8-22-3-17 authorizes the board to levy a special tax to pay the principal and interest on such bonds.

IC 8-22-3-18.1 authorizes the board to issue revenue bonds to finance capital improvements, refund any bonds or pay any loan contract.

TEMPORARY LOANS

Temporary loans may be made by the board in anticipation of the collection of taxes of the authority actually levied and in course of collection for the fiscal year in which the loans are made. The loans must be authorized by ordinance and evidenced by warrants in the form provided by the authorizing ordinance. The warrants must state the total amount of the issue, the denomination of the warrant, the time and place payable, the rate of interest, the funds in anticipation of which they are issued and out of which they are payable, and a reference to the ordinance authorizing them and the date of its adoption. The ordinance authorizing temporary loans must appropriate and pledge a sufficient amount of the current revenue in anticipation of which they are issued and out of which they are payable. The warrants evidencing the temporary loans must be executed, sold, and delivered as are bonds of the authority.

The board may negotiate terms and borrow money from any source under a local contract, subject to the following requirements:

- (1) The loan contract must be approved by resolution of the board.
- (2) The loan contract must provide for the repayment of the loan in not more than forty (40) years.

- (3) The loan contract must state that the indebtedness is that of the authority, is payable solely from revenues of the authority that are derived from either airport operations or from revenue bonds, and may not be paid by a tax levied on property located within the district.
- (4) The loan contract must be submitted to the Indiana Department of Local Government Finance, which may approve, disapprove, or reduce the amount of the proposed loan contract. The Indiana Department of Local Government Finance must make a decision on the loan contract within thirty (30) days after it is submitted for review. The action taken by the Indiana Department of Local Government Finance on the proposed loan contract is final.

Any loan contract issued is issued for essential public and governmental purposes. A loan contract, the interest on it, the proceeds received by a holder from the sale of a loan contract to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, proceeds received at maturity, and the receipt of the interest and proceeds are exempt from taxation as provided in IC 6-8-5. [IC 8-22-3-19]

APPOINTMENT OF TREASURER

The board shall appoint a person to act as treasurer of the authority, who shall give bond in the sum and with conditions that the board prescribed and with surety that the board approves. The treasurer is appointed for a term of one (1) year unless sooner removed for cause, but may be appointed for additional terms of one (1) year. All money payable to the authority shall be paid to the treasurer, who shall deposit it under IC 5-13-6. Money so deposited may be invested in accordance with IC 5-13-9.

The treasurer shall keep an accurate account of all appropriations made and all taxes levied by the authority, of all money owing or due the authority, and of all money received and disbursed. He shall preserve all vouchers for payment and disbursements made, in accordance with the statutes relative to the preservation of public records. The treasurer shall issue all warrants for the payment of money from the funds of the authority, but a warrant may be issued for the payment of a claim only if the claim has been allowed in accordance with the procedure prescribed by the regulations of the board. All warrants must be countersigned by the president or vice president.

Payroll and similar warrants may be executed with facsimile signatures.

Whenever the treasurer is requested to issue a warrant, he may require evidence that the amount claimed is justly due and in conformity with law and for that purpose may summon before him any officer, agent or employee of the district, or other person, and examine him under similar oath or affirmation, which oath or affirmation the treasurer may administer. [IC 8-22-3-20]

ANNUAL TREASURER'S REPORT

The treasurer shall submit to the board annually, and more often if required by the board, a report of the accounts exhibiting the revenues, receipts, and disbursements and the sources from which the revenues and funds are derived and in what manner they have been disbursed. [IC 8-22-3-21]

AUDITS

The State Board of Accounts shall audit the records of the authority and shall prescribe or approve all accounting forms and records used by the authority.

In addition, the treasurer shall, if required by the board, submit his records of account as treasurer of the authority to a certified public accountant or firm of certified public accountants, as selected by the board, for audit. That person shall prepare and submit a certified account of the records of account to the board exhibiting the revenues, receipts, and disbursements and the sources from which the revenues, and funds are derived and in what manner they have been disbursed. [IC 8-22-3-22]

ANNUAL BUDGET

The board shall annually prepare a budget for the purpose of operating and maintenance expenditures of the authority and shall calculate the tax levy necessary to provide funds for the operating expenditures necessary to carry out the powers, duties, and functions of the authority. The budget must be prepared and submitted:

- (1) Before or at the same time;
- (2) In the same manner; and
- (3) With notice;

as provided by the statute relating to the preparation of budgets by eligible entities. The budget is subject to the same review by the county tax adjustment board and the Indiana Department of Local Government Finance as exists under the general statutes relating to budgets of eligible entities.

If the eligible entity that established the authority is a county, city, or town, the fiscal body of that entity may review and modify the authority's operating and maintenance budget and the tax levy to meet it, in the same manner as the budgets and tax levies of executive departments of that entity are reviewed and modified. This power includes the power to reduce any item of salary.

Whenever a tax levy is required to finance the budget of an authority that was established by a city or town, the fiscal body of the county may also review the budget and tax levy of the authority, unless the district:

- (1) Lies wholly within, or coincides with, the boundaries of a city or town;
- (2) Is not the recipient of funds from a county-wide tax levy made specifically for the operating and maintenance budget for that authority; and
- (3) Was established by the fiscal body of the city or town, acting independently.

However, the budget and tax levy of the authority are subject to review or modification by the fiscal body of the city or town with which it shares territory, in the same manner as the budgets and tax levies of the executive departments of that city or town are reviewed or modified.

If an authority was established by another eligible entity or by two (2) or more eligible entities acting jointly, its operating and maintenance budget and the tax levy to meet it is subject to review and modification by the same body that reviews and modifies the budget of each of those entities in the same manner as the budgets and tax levies of those entities, including reduction of any item of salary. [IC 8-22-3-23]

CUMULATIVE BUILDING FUND

The board may provide a cumulative building fund in compliance with IC 6-1.1-41 to provide for the acquisition of real property, and the construction, enlarging, improving, remodeling, repairing, or equipping of buildings, structures, runways, or other facilities for use in connection with the airport, and needed to carry out this chapter.

The board may levy in compliance with IC 6-1.1-41 a tax not to exceed:

- (1) thirty-three hundredths of (\$0.0033) on each one hundred dollars (\$100) of assessed value of taxable property within the district, if an eligible entity other than a city established the district or if the district was established jointly with an eligible entity that is not a city;
- (2) one and thirty-three hundredths cents (\$0.0133) on each one hundred dollars (\$100) of assessed value of taxable property within the district, if the authority was established under IC 19-6-3 (before its repeal on April 1, 1980); and
- (3) for any other district not described in subdivision (1) or (2), the following:

<u>Total Assessed Property Valuation</u>	<u>Rate Per \$100 of Valuation</u>
\$300 million or less	\$0.0167
More than \$300 million but not more than \$450 million	\$0.0133
More than \$450 million but not more than \$600 million	\$0.01
More than \$600 million but not more than \$900 million	\$0.0067
More than \$900 million	\$0.0033

As the tax is collected it may be invested in negotiable United States bonds or other securities that the federal government has the direct obligation to pay. Any of the funds collected that are not invested in government obligations shall be deposited in accordance with IC 5-13-6 and shall be withdrawn in the same manner as money is regularly withdrawn from the general funds but without further or additional appropriation. The levy authorized by this section is in addition to the levies authorized by IC 8-22-3-11 and IC 8-22-3-23. [IC 8-22-3-25]

BOARD OF FINANCE

The board shall act as a board of finance under IC 5-13. [IC 8-22-3-26]

OFFICERS' AND EMPLOYEES' BONDS

The board may require a bond from any of the officers and employees of the authority in an amount, upon terms and conditions, and with surety that the board designates. [IC 8-22-3-27]

PAYING EXPENSES PRIOR TO COLLECTION OF TAXES

All expenses incurred by the board that must be paid prior to the collection of taxes levied under this chapter shall be met and paid in the following manner. The board shall from time to time certify the items of expense to the controller of the city, clerk-treasurer of the town, or auditor of the county in which the district is located, directing him to pay the amounts, and the fiscal officer shall draw his warrant or warrants upon the treasurer of the city, town, or county, as applicable, which warrant or warrants shall be paid out of the general funds of the city, town, or county not already appropriated, without special appropriations being made by the fiscal body or approval by any other body.

In case there are no unappropriated general funds of the city, town, or county, the fiscal officer shall recommend to the fiscal body the temporary transfer, from other funds of the city, town, or county, of a sufficient amount to meet the items of expense or the making of a temporary loan for the purpose. The fiscal body affected shall immediately make the transfer of funds or authorize the temporary loans in the same manner that other transfers and temporary loans are made by the city, town, or county. The total amount to be advanced may not exceed fifty thousand dollars (\$50,000) and the fund or funds of the city, town, county, or other entity from which the advancement is made shall be fully reimbursed and repaid by the authority out of the first proceeds of the special taxes levied under this chapter. No part of the funds advanced may be used in the acquisition of real property. [IC 8-22-3-30]

ACCEPTANCE OF OTHER MONIES

The authority, acting by and through its board under IC 8-21-8, may accept, receive, and receipt for federal, other public, or private monies for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of airports, other air navigation facilities, and sites for them, and comply with federal laws made for the expenditure of federal monies upon airports and other air navigation facilities.

Subject to IC 8-21-8, the board has exclusive power to submit to the proper state and federal agencies applications for grants of funds for airport development and to make or execute representations, assurances and contracts, to enter into covenants and agreements with state or federal agency or agencies relative to the development of an airport, and to comply with all federal and state laws pertaining to the acquisition, development, operation, or administration of airports and properties by the authority. [IC 8-22-3-31]